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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA

IN RE

SCOTT K. WILLIAMS

Debtor.

**KENT WILLIAMS, DUFFY WILLIAMS,
BRENDA HARBORS, KAREN PRIEST,
MARY ELLA CARTER, and HUGH L.
WILLIAMS FAMILY TRUST**

Plaintiffs,

v.

SCOTT K. WILLIAMS

Defendant.

Case No. 22-90147-BPH

Adversary No. _____

COMPLAINT

Plaintiffs Kent Williams, Duffy Williams, Brenda Harbors, Karen Priest, Mary Ella
Carter and Hugh L. Williams Family Trust, respectfully request the Court to enter Judgment

COMPLAINT

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denying the discharge of Scott K. Williams, pursuant to 11 U.S.C. § 523(a)(4) and 11 U.S.C. § 523(a)(6) and for other relief.

In support of this Complaint, Plaintiffs state as follows:

JURISDICTION AND VENUE

1. This is an adversary proceeding in which Plaintiff is seeking the denial of the Defendant's discharge. The Court has jurisdiction over this Adversary Proceeding pursuant to 28 U.S.C. §§ 157 and 1334, and 11 U.S.C. § 523.

2. This is a core proceeding under 28 U.S.C. § 157(b)(2)(J).

3. Venue is proper pursuant to 28 U.S.C. § 1409.

4. As of the date of filing of the Petition in this case, Defendant resided at 11423 Spotted Fawn Lane, Bigfork, MT 59911.

5. This Adversary Proceeding is related to In re Scott K. Williams, Case No. 9-22-bk-90147-BPH, now pending in this Court (the "Bankruptcy Case").

6. The Plaintiffs do consent to entry of final orders and judgments pursuant to FRBP 7008.

PARTIES

7. The Bankruptcy Case was commenced via the filing of a voluntary Chapter 7 petition by Scott K. Williams ("Debtor" or "Defendant") on September 30, 2022.

8. Kent Williams, Duffy Williams, Brenda Harbors, Karen Priest, Mary Ella Carter and Hugh L. Williams Family Trust ("Plaintiffs") filed a Proof of Claim on May 26, 2023 docketed as Claim No. 10-1. The amount of Plaintiffs' claim is \$410,516.03.

ALLEGATIONS COMMON TO ALL CLAIMS

9. At one time Debtor acted as the Successor Trustee of the Hugh L. Williams Trust.

(Trust”).

10. Plaintiffs herein (except the Trust itself), are beneficiaries of the Trust.

11. Prior to the death of Hugh L. Williams on January 17, 2019, the Debtor held a power of attorney for Hugh L. Williams.

12. During the time that he served as Successor Trustee and held the power of attorney of Hugh L. Williams, the Debtor Scott K. Williams made improper distributions to himself from the Trust as “severance pay” in at least the sum of \$75,000.00, used Trust funds to pay his personal expenses in at least the sum \$130,715.67, co-mingled Trust assets with his personal assets, retained and converted inventory and other property that belonged to the Trust having a value of over \$142,000.00, and improperly incurred and paid attorney fees from Trust assets.

13. In his capacity as Successor Trustee of the Trust, the Defendant and Debtor Scott K. Williams owed a fiduciary duty to the beneficiaries of the Trust and the Trust itself, i.e. the Plaintiffs herein.

14. In his capacity as power of attorney for the late Hugh L. Williams the Defendant and Debtor Scott K. Williams owed a fiduciary duty to the late Hugh L. Williams.

15. The Defendant and Debtor Scott K. Williams breached his fiduciary duties to the Plaintiffs by converting and embezzling Trust assets through improper distributions to himself, by use of Trust funds for personal expenses, by co-mingling Trust assets, through the improper retention and conversion of property for his own use that belongs to the Trust, the improper payment of attorney fees with Trust assets and through the improper administration of the Trust.

16. The Defendant and Debtor Scott Williams conduct in converting, embezzling and misusing Trust funds and assets was willful and malicious and caused injury to the Plaintiffs in at least the sum of \$410,516.03 plus other damages.

COUNT ONE
11 U.S.C § 523(a)(4)

17. Plaintiffs reallege all previous paragraphs.

18. The Defendant and Debtor Scott K. Williams embezzlement, conversion and misuse of Trust funds while acting in a fiduciary capacity, which caused damages to and forms the basis of Plaintiffs' claim, constitutes defalcation while acting in a fiduciary duty and embezzlement under 11 U.S.C. § 523(a)(4) and thus precludes the Debtor from discharging any portion of the Plaintiffs' claim under 11 U.S.C. § 523(a).

19. The Defendant and Debtor Scott K. Williams conversion and misuse of funds belonging to Hugh L. Williams, while acting in a fiduciary capacity, which caused damages to and forms the basis of Plaintiffs' claims, constitutes defalcation while acting in a fiduciary duty and embezzlement under 11 U.S.C. § 523(a)(4) and thus precludes the Debtor from discharging any portion of the Plaintiffs' claim under 11 U.S.C. § 523(a).

COUNT TWO
11 U.S.C. § 523(a)(6)

20. Plaintiffs reallege all previous paragraphs.

21. The conduct of the Defendant and Debtor in converting and embezzling funds that belong to the Trust and the Plaintiffs, and to late Hugh L. Williams, was willful and malicious with the intent to cause damage to Plaintiffs or with reckless indifference to the damages that it would cause Plaintiffs. Said conduct thus precludes the Debtor from discharging any portion of Plaintiffs' claim under 11 U.S.C. § 523(a)(6).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for a judgment denying the Debtor a discharge of any portion of Debtor's obligation to Plaintiffs under Plaintiffs Claim No. 10-1, pursuant to 11 U.S.C. § 523(a)(4) and/or 11 U.S.C. § 523(a)(6), for costs of this lawsuit and for such other relief as the Court deems just and proper.

Respectfully submitted this 18th day of July 2023.

WORDEN THANE P.C.

By: /s/ Martin S. King
Martin S. King
Attorney for Plaintiffs